

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT E.D.N.Y.

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D/F

BROOKLYN OFFICE

LILLIAN BROWN,

Plaintiff,

-against-

CHIEF JUDGE AMON,

Defendant.

**MEMORANDUM
AND ORDER**
13-CV-06225 (ARR)

ROSS, United States District Judge:

On November 4, 2013, plaintiff, proceeding *pro se*, filed this complaint against the Honorable Carol Bagley Amon, Chief Judge of this Court. Plaintiff alleges that her prior case, *Brown v. Columbia Mutual Life Insurance Co.*, 13-CV-2724 (CBA), was dismissed by Chief Judge Amon. Plaintiff's request to proceed *in forma pauperis* is granted pursuant to 28 U.S.C. § 1915 solely for the purpose of this Order. The complaint is dismissed for the reasons below.

I. Standard of Review

In reviewing plaintiff's complaint, the Court is mindful that the submissions of a *pro se* litigant must be construed liberally and interpreted "to raise the strongest arguments that they suggest." *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006). Under 28 U.S.C. § 1915(e)(2)(B), a district court shall dismiss an *in forma pauperis* action where it is satisfied that the action is "(i) frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." An action is "frivolous" when either: (1) "the factual contentions are clearly baseless, such as when allegations are the product of delusion or fantasy, or (2) the claim is based on an

indisputably meritless legal theory.” *Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998) (internal quotation marks omitted).

II. Discussion

Plaintiff’s claim against the Chief Judge Amon must be dismissed because judges have absolute immunity from suits for judicial acts performed in their judicial capacities. *See Bliven v. Hunt*, 579 F.3d 204, 209 (2d Cir. 2009). The absolute judicial immunity of the court and its members “is not overcome by allegations of bad faith or malice,” nor can a judge “be deprived of immunity because the action he took was in error . . . or was in excess of his authority.” *Mireles v. Waco*, 502 U.S. 9, 11, 13 (1991). As the alleged wrongdoing of this defendant was an act performed in a judicial capacity, *i.e.*, the dismissal of plaintiff’s prior action, plaintiff’s claim is foreclosed by absolute judicial immunity and is dismissed. 28 U.S.C. § 1915(e)(2)(B)(iii).

III. Conclusion

Accordingly, plaintiff’s complaint is dismissed in its entirety. 28 U.S.C. § 1915(e)(2)(B)(iii). The Court has considered allowing plaintiff leave to amend her complaint but declines to do so in light of the futility of amendment. *See, e.g., Cuoco v. Moritsugu*, 222 F.3d 99, 112 (2d Cir. 2000). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith, and, therefore, *in forma pauperis* status is denied for purposes of an appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/S/ Judge Allyne R. Ross

Allyne R. Ross
United States District Judge

Dated: November 15, 2013
Brooklyn, New York